

EXHIBIT U

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE MATTER OF:)
RICHARD KADREY, et al.,)
Plaintiff,)
vs.) C.A. NO.:
META PLATFORMS, INC.,) 3:23-cv-03417-VC
Defendant.)
)

** HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY **
VIDEOTAPED DEPOSITION OF BARBARA FREDERIKSEN-CROSS
Palo Alto, California
Friday, April 4, 2025

Stenographically Reported by:
HEATHER J. BAUTISTA, CSR, CRR, RPR, CLR
Realtime Systems Administrator
California CSR License #11600
Oregon CSR License #21-0005
Washington License #21009491
Nevada CCR License #980
Texas CSR License #10725

DIGITAL EVIDENCE GROUP
1730 M. Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 219

1 Q. And I'll represent on the record that this
2 was a discussion of logs related to torrenting
3 activity as well.

4 A. So these were logs that were actually
5 created and stored on disc related to some
6 torrenting activity?

7 Q. Correct.

8 A. Okay. Thank you.

9 MR. WEINSTEIN: Just to put in context.
10 (Stenographer clarification.)

11 MR. WEINSTEIN: Page 119, referring to
12 spring of 2023, I just want to make sure the context
13 is there.

14 MR. STEIN: Okay. Thank you, Counsel.

15 THE WITNESS: Okay.

16 Q. (By Mr. Stein) Ms. Frederiksen-Cross, I
17 just wanted to confirm a couple of things.

18 Did you look at Meta's torrenting activity
19 from the year 2022?

20 A. No.

21 Q. Did you look at Meta's torrenting activity
22 from the year 2024?

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 220

1 A. With respect to the materials that we've
2 discussed throughout the day, yes.

3 Q. And did you look at Meta's torrenting
4 activity in 2023?

5 A. I think that the 2023 SciTech download was
6 represented, for instance, in the list of materials
7 downloaded and would have been therefore considered
8 as a part of my analysis, yes.

9 Q. And is that the only torrenting activity
10 that you looked at in 2023?

11 A. Well, I -- you know, I looked at that
12 summary of the files on the --

13 (Stenographer clarification.)

14 THE WITNESS: -- on the S3. It's an Amazon
15 storage area that were the downloaded files. I was
16 provided a list of those. And as best I recall, the
17 SciTech materials were included in there. I could
18 double-check that on a break, but --

19 Q. (By Mr. Stein) Okay.

20 But did any other datasets besides SciTech
21 appear in your study of Meta torrenting activity
22 from 2023?

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 221

1 A. I believe that one of the torrent scripts I
2 comment on was in the 2023 time period. The
3 download -- download_trnts as opposed to the
4 download spark one, so some of the source code
5 associated as well.

6 Q. And -- and what was torrented as part of
7 that script that you looked at?

8 A. That was the one that torrented portion of
9 LibGen from SciTech.

10 Q. Okay.

11 I'm sorry. I was asking you besides
12 SciTech.

13 A. Oh. Oh. I'm sorry. I'm sorry.

14 Q. Did you review any other torrenting
15 activity from that year?

16 A. Not that I specifically reviewed in the
17 context of knowing it was for that year necessarily.

18 Q. Okay.

19 And did you review any local -- I'm sorry.

20 You already confirmed and you can confirm
21 again that you did not review any local instances
22 from Amazon EC2 that were used by Meta in the

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 222

1 torrenting activity that you examined?

2 A. The actual ones that were used, to the best
3 of my knowledge, not unless they -- unless what they
4 gave me was access to one, but I was just asking
5 generically to see how they were set up, so I'm
6 assuming it was not one.

7 Q. So you did not review the command history
8 associated with those downloads; is that correct?

9 A. I'm not aware of any command history having
10 been produced; so, no, I have not reviewed command
11 history associated with any of the downloads.

12 Q. And with respect to the year 2022, did you
13 review any billing or usage data associated with
14 torrenting?

15 MR. WEINSTEIN: Object to form.

16 THE WITNESS: I do not recall that any of
17 the data I reviewed went back that far.

18 Q. (By Mr. Stein) And did you review any
19 command history from the year 2022?

20 A. Again, I'm not aware that any command
21 history from 2022 has been produced, so I have not.

22 Q. And it's true that the billing and usage

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 223

1 data for -- from Amazon allowed you to determine
2 upload and download analysis; isn't that correct?

3 A. It allowed me to determine the upload and
4 download amounts; not the specific content, but the
5 gross number of bytes, if you will, or megabytes for
6 the time periods from which it was produced.

7 Q. And if that were missing for 2022, would
8 that make it difficult to ascertain amounts
9 downloaded and uploaded?

10 MR. WEINSTEIN: Object to form. Calls for
11 speculation.

12 THE WITNESS: So you're saying assuming
13 that there was downloading in 2022. Again, I'm not
14 specifically aware of any.

15 Q. (By Mr. Stein) Understood.

16 A. But assuming that there was, if there were
17 no billing records for it -- ask your question
18 again. Just make sure I'm in the same ballpark
19 here.

20 Are you asking would that mean the billing
21 records were incomplete or -- I just lost the tail
22 end of your question.

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 238

1 Q. Okay.

2 And if you'll see a couple lines down,
3 we're talking about the year 2022, although I
4 understand you don't have a complete record in front
5 of you.

6 If I pose the question to you that based on
7 the premise that Meta did torrent LibGen fiction in
8 2022, how would that impact your analysis about the
9 probability of Plaintiffs' works being subject to
10 uploading via torrent?

11 MR. WEINSTEIN: Object to form.

12 THE WITNESS: First of all, I would have to
13 understand with respect to the actual S3 data if it
14 was included or not included in the totals and
15 counts that Dr. Choffnes and I did from the S3 data.

16 And then I would also want to characterize
17 and quantify how much data that was and see how
18 that -- how or whether that is reflected in the
19 billing records.

20 I would also want to examine the contents
21 of those datasets, as I did with other datasets via
22 download of Anna's Archive indexes, to understand

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 239

1 whether or not this material contained the
2 works-in-suit, and if so, how many copies, and
3 et cetera, and redo the appropriate portions of my
4 analysis to account for the new evidence, of course.

5 Q. (By Mr. Stein) And just to note something
6 for the record, you referenced the S3 data. If you
7 turn to Page 51 of that same exhibit, starting at
8 Page 4, you'll see -- well, I'll give you a second
9 to review that.

10 A. I think you meant Line 4.

11 Q. Yes, you're right. I'm sorry.

12 So, Ms. Frederiksen-Cross, I just want to
13 give you a chance to see the testimony from Meta
14 regarding which GPU cluster was used and to see that
15 it was not Amazon.

16 Do you see that?

17 A. Right, it's -- appears to be GPU cluster
18 located in Salt Lake City and operated by Penguin
19 Computing, referred to as an H2 cluster.

20 Q. And were you given any data about the
21 activity of the H2 cluster in this case?

22 A. Not that I am specifically aware of, you

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 240

1 know, and I don't know if this data that was
2 included here was ultimately copied to the S3 data
3 that I was -- you know, that I have listings for or
4 not. So I -- I'm not aware of having been given
5 data that was directly related to H2, and I'm not
6 sure if I have data that was derived from the data
7 that was on this H2 cluster.

8 Q. And were you aware of Penguin Computing
9 before now, and their role in this case?

10 A. Not in this case. I have the vague sense I
11 may have heard their name before in some other
12 context, but not in this case at all.

13 Q. Okay.

14 Do you know whether Plaintiffs' works are
15 fiction or non-fiction?

16 MR. WEINSTEIN: Object to form.

17 THE WITNESS: I believe that some of
18 Plaintiffs' works are fiction. I do not
19 specifically -- I have to confess, I haven't read
20 all of them, and so I haven't -- as I sit here, I'm
21 not aware of what other categories they fall into
22 aside from their presence or absence in some of the

4/4/2025

Richard Kadrey, et al. v. Meta Platforms, Inc.
Highly Confidential - Attorneys' Eyes Only

Barbara Frederiksen-Cross

Page 293

1 I, HEATHER J. BAUTISTA, CSR No. 11600,

2 Certified Shorthand Reporter, certify:

3 That the foregoing proceedings were taken
4 before me at the time and place therein set forth,
5 at which time the witness declared under penalty of
6 perjury; that the testimony of the witness and all
7 objections made at the time of the examination were
8 recorded stenographically by me and were thereafter
9 transcribed under my direction and supervision; that
10 the foregoing is a full, true, and correct
11 transcript of my shorthand notes so taken and of the
12 testimony so given;

13 (XX) Reading and signing was not requested/offered.

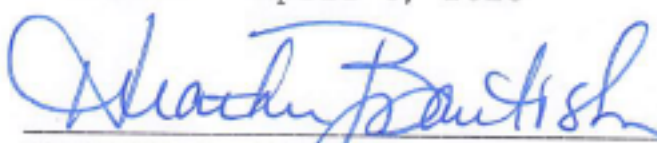
14 I further certify that I am not financially
15 interested in the action, and I am not a relative or
16 employee of any attorney of the parties, nor of any
17 of the parties.

18 I declare under penalty of perjury under the
laws of California that the foregoing is true and
19 correct. Dated: April 6, 2025

20

21

22


HEATHER J. BAUTISTA, CSR, CRR, RPR, CLR